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MUNICIPAL REGULATION OF STREET RAILWAYS. — A city ordinance required existing street railway companies to pave and keep in repair the space between their rails and tracks and one foot beyond on each side. The Court of Errors and Appeals of New Jersey, reversing the Supreme Court, decided that the ordinance could not be supported as an exercise of the police power. *Fielders* v. *North Jersey St. Ry. Co.*, 53 Atl. Rep. 404. In contrast with this decision stands the late holding of the Supreme Court of Illinois, likewise reversing a lower court, and declaring that an ordinance requiring street railway companies to clean the street between their rails falls reasonably within the police power. *City of Chicago* v. *Chicago Union Traction Co.*, 65 N. E. Rep. 243. These cases illustrate the difficulty of determining the practical limits of a power which is well defined in theory.

The general principle is clear that municipalities cannot impair their contracts with corporations by imposing new burdens upon them. On the other hand it is equally true that municipalities can always exercise police power over corporations. Indeed, as the Illinois court points out, the city cannot surrender or contract away the governmental power of police control delegated to it by the state. The absence of definite tests as to the limits of this power has, however, brought about results more or less inconsistent. Certain classes of ordinances intended to promote public safety and well-being clearly fall within the police power. Regulations of speed and general management are valid if reasonable. *State, Trenton, etc., Co., Pros.* v. *Trenton*, 53 N. J. Law 132. So, too, ordinances are upheld which provide that no affirmative injury shall be done, for example, that snow shall

not be plowed from the tracks onto the rest of the street. *Broadway, etc., Ry. Co.* v. *Mayor*, 49 Hun (N. Y.) 126. Sprinkling the tracks with sand may be forbidden. *State, Consolidated Traction Co., Pros.* v. *Elizabeth*, 58 N. J. Law 619. Even in the absence of express regulation street railways are bound to lay rails properly and to keep them in repair, and to avoid obstructing or endangering passage. *Rockwell* v. *Third Ave. Ry. Co.*, 64 Barb. (N. Y.) 438.

The limits of the police power, however, would seem in general to be passed when the ordinances are designed not to protect the public, but to relieve it from such municipal burdens as paving, repairing, and cleaning the streets. Nevertheless, the Illinois decision may, perhaps, meet with approval in sustaining the ordinance requiring the cleaning of the tracks. *Cf. Village of Carthage* v. *Frederick*, 122 N. Y. 268. The court points out that railways are given exceptional privileges in the use of the streets, and furthermore have themselves caused the special need and difficulty of cleaning between the tracks. In a somewhat similar case an ordinance requiring railway companies to sprinkle their tracks was upheld. *City, etc., Ry. Co.* v. *Mayor, etc., of Savannah*, 77 Ga. 731. Any further imposition of burdens is difficult to justify. Some courts, it is true, have supported ordinances similar to that condemned in New Jersey, requiring companies to repair between and about the rails. *City of Harrisburg* v. *Harrisburg P. Ry. Co.*, 1 Pearson (Pa.) 298; see *Memphis, etc., Ry. Co.* v. *State*, 87 Tenn. 746. A New Jersey *dictum* often quoted to the same effect is expressly repudiated by the principal case. The latter seems clearly right in principle. The ordinances in question are intended to shift public burdens, to compel the companies to do something which otherwise the city would have to do, something which would have to be done though the companies were not in existence. They are not measures for public safety and convenience, but devices for revenue purposes. Moreover, it is hard to distinguish them from regulations requiring paving, and the weight of authority is strongly against ordinances of the latter sort. *Kansas City* v. *Corrigan, etc., Ry. Co.*, 86 Mo. 67. It is obviously necessary carefully to distinguish cases where provisions as to paving and repairing are contained in the charter.

CRIMINAL ATTEMPT. — An intended crime may fail of accomplishment, (1) because voluntarily abandoned; (2) because the means used are inadequate; (3) because an unforeseen obstacle intervenes; or (4) because the object upon which it is intended to be committed is not present. In the first three cases, since there is no doubt as to the criminal intent, the only point to be considered is whether the act done is of sufficient importance for the law to notice it — whether it is such as to cause alarm to society. In determining this, both the magnitude of the crime intended and the nearness of the act done to the projected result must be taken into account. When courts arrive at different results upon similar states of fact, it is to be attributed, not to a difference as to the law, but rather to a difference in judgment as to the importance of the act done. Compare *People* v. *Sullivan*, 173 N. Y. 122; *People* v. *Stites*, 75 Cal. 570; *People* v. *Youngs*, 122 Mich. 292.

There is greater difficulty, however, where the object against which the crime is directed is not present. It is generally held that there may be an